HARGRAY

Trey Judy
Director – Regulatory

December 10, 2015

By Electronic Transmission

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

***RE: Connect America Fund*, WC Docket No. 10-90; *Universal Service Contribution Methodology*, WC Docket No. 06-122**

Dear Ms. Dortch:

On December 8, 2015, Jeffrey Wilson, Chief Executive Officer of West Carolina Telephone Cooperative, Keith Oliver, Sr., Vice President – Corporate Operations for Home Telecom, Michael Gottdenker, Chairman and Chief Executive Officer for Hargray Communications, Inc. and the undersigned Trey Judy, Director – Regulatory of Hargray Communications Group, Inc. (the "S.C. Group"), met with Commissioner Mignon Clyburn and her Legal Advisor Rebekah Goodheart, to discuss issues pending in the above-cited proceedings relating to the reform of the FCC's system for providing support to high-cost, rate-of-return local exchange carriers.

The S.C. Group expressed its support for limiting high cost universal service support in areas with unsubsidized competition so long as three (3) fundamental principles are maintained.

1) Support related to investments that have already been made based on existing rules should be honored.
2) Coverage thresholds should be based on the geographic area covered by the competitor rather than the number of customer locations.
3) Any support reduction methodology should disaggregate the disproportionate share of costs to serve those areas where a competitor does not serve.

With regard to the first principle, the S.C. Group emphasized the importance of using a methodology that would remove support only on prospective investments and reiterated its firm opposition to any changes to prior investment recovery under existing mechanisms. There was a general discussion about the mechanics behind such an approach and the S.C. Group committed to follow up with written details on the concept.

With regard to the second principle, the S.C. Group expressed its concern that when the FCC bases a rule on the number of customers a competitive carrier serves, rather than geographic coverage, it enables the competitive carrier to cream skim the higher density, lower-cost portion of a rural ILEC's service area to the detriment of the ILEC's ability to deliver quality affordable services to its remaining customers. This concern for the adverse effects of cream skimming in rural telephone company service areas has been recognized and addressed both in the Telecommunications Act of 1996 and by the FCC on multiple occasions.

Section 214(e)(5) of the Communications Act states:

> The term 'service area' means a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms. **In the case of an area served by a rural telephone company, a 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.**[1]

Thus, Congress established a presumption that a rural telephone company's entire study area would be the area that a competitor would have to agree to serve before it could be designated as an ETC and become eligible for universal service support.

This provision of the law is codified in Section 54.207 of the FCC's rules.[2] The rule states that if a state commission proposes to define a service area of a rural telephone company to be something other than the company's study area, then the state commission must submit a petition to the FCC, and the FCC will consider that proposed definition via a defined set of procedures. This is notably different than what is permitted in areas served by non-rural ILECs, which permits a state commission to unilaterally establish the service area of a competitive ETC, without concurrence by the FCC.

In the 1997 Report and Order that established the rule for the definition of a service area, the FCC stated:

> **We agree with the Joint Board that, if competitors, as a condition of eligibility, must provide services throughout a rural telephone company's study area, the competitors will not be able to target only the customers that are the least expensive to serve and thus undercut the ILEC's ability to provide service throughout the area.**[3]

In a 2005 Order in which the FCC established minimum requirements for a telecommunications carrier to be designated as an ETC, the Commission again addressed the adverse effects of cream skimming by a competitor in a rural ILEC study area. The following are relevant excerpts:
When a competitive carrier requests ETC designation for an entire rural service area, it does not create cream skimming concerns because the affected ETC is required to serve all wire centers in the designated service area. **The potential for cream skimming, however, arises when an ETC seeks designation in a disproportionate share of the higher-density wire centers in an incumbent LEC's service area.** ... Because line density is a significant cost driver, it is reasonable to assume

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[1] 47 USC §214(e)(5).

[2] 47 CFR §54.207.

[3] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157 (rel. May 8, 1997), para. 189 (*1997 USF Report and Order*).

that the highest-density wire centers are the least costly to serve, on a per-subscriber basis. **The effects of cream skimming also would unfairly affect the incumbent LEC's ability to provide service throughout the area since it would be obligated to serve the remaining high-cost wire centers in the rural service area while ETCs could target the rural incumbent LEC's customers in the lowest cost areas and also receive support for serving the customers in these areas.**[4]

The Order goes on to explain that cream skimming could be problematic even in instances where a rural ILEC chose to disaggregate its support to the higher-cost portions of the service area:
Nevertheless, although disaggregation may alleviate some concerns regarding cream skimming by ETCs, because an incumbent's service area may include wire centers with widely disparate population densities, and therefore highly disparate cost characteristics, disaggregation may be a less viable alternative for reducing cream skimming opportunities.[5]

With regard to the third principle, the importance of disaggregation, The S.C. Group stated its opposition to using the model's relative cost results to disaggregate support. It noted that the model's cost results were questionable at best and pointed to a specific example. Mr. Wilson relayed his experience deploying a fiber network in North Dakota and compared it to a similar, but less robust fiber network deployed in S.C. The model produced a 250% increase over current mechanisms for the North Dakota company, but in S.C., the model dictated a decrease in support of over eighty (80%) percent.

The S.C. Group referenced a Vantage Point Study[6] which indicated that the model's greatest inaccuracies were at the most and least expensive locations to serve. These cost data points would be the most critical in disaggregating costs. Also, using the model in this manner would make it non-optional and such a change would necessitate significant further study and changes to improve its accuracy by orders of magnitude before it can be used. The S.C. Group indicated that the model could be used to create safe harbors for cost disaggregation, but that companies must have the option of using actual cost data.

If you have any questions, please contact the undersigned.

Respectfully submitted,

/s/ Trey Judy
Trey Judy

cc: Rebekah Goodheart
Commissioner Mignon Clyburn
H. Keith Oliver
Jeffrey Wilson
Michael Gottdenker

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[4] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (rel. Mar. 17, 2005), para. 49 (*2005 USF Report and Order*).

[5] *Id.*, para. 51.

[6] Letter from Larry Thompson, Vantage Point, to Marlene H. Dortch, FCC, WC Docket No. 10-90 (filed July 13, 2015).